

MODIFICATION OF RIGHT-OF-WAY AND/OR RELOCATION OF A REGULATED DRAIN PETITION

PETITION FOR THE MODIFICATION OF RIGHT-OF-WAY AND/OR RELOCATION OF:

(NAME OF REGULATED DRAIN)

IN THE VICINITY OF _____

(ADDRESS)

BY _____,
(NAME) (TITLE)

ON BEHALF OF _____
(NAME AND ADDRESS OF PETITIONER)

Petitioner herein petitions the Board of Public Works (“Board”) to modify the right-of-way and/or to relocate a portion of the above-referenced regulated drain, and represents to the Board as follows:

1. Petitioner recognizes that, by law, the Board or its authorized representative holds a permanent right-of-entry over, across, and upon land containing regulated drains, extending at right angles seventy-five (75) feet from the centerline of a pipe and from the top edge of each bank of an open ditch (I.C. 36-9-27-33). As such, Petitioner may not erect permanent structures within the right-of-way or use such land in any manner inconsistent with the proper operation of the regulated drain without first having obtained the written consent of the Board.

2. Petitioner recognizes that, by law, the Board may issue an order authorizing reconstruction/relocation of a regulated drain so long as the conditions set forth in I.C. 36-9-27-52.5 are met.

3. Petitioner seeks modification of the right-of-way and/or relocation of the regulated drain for the following reason(s): _____

4. The portion of the regulated drain which would be affected by the modification and/or relocation is contained entirely within property owned by Petitioner and:

- a. A plan showing the location of the relocation the regulated drain and right-of-way, at present and as proposed in relation to Petitioner's property, is attached hereto and incorporated herein as Exhibit A;
- b. A legal description of the regulated drain and right-of-way, at present, is attached hereto and incorporated herein as Exhibit B; and
- c. A legal description of the regulated drain and right-of-way, as relocated and/or modified, is attached hereto and incorporated herein as Exhibit C.

5. As a condition of permission to modify the right-of-way and/or to relocate the regulated drain, Petitioner agrees to take any steps necessary to assure the proper operation of the regulated drain itself, as required by the Drainage Division of the Department of Code Enforcement.

6. Petitioner recognizes that a Drainage Permit under Section 561-221 of the Revised Code of the Consolidated City of Indianapolis/Marion County, Drainage and Sediment Control Ordinance, must be obtained for any land alteration accompanying and modification and/or relocation.

7. Petitioner warrants that any land alterations accompanying the modification and/or relocation shall be accomplished so as to prevent damage to adjoining property.

8. Petitioner acknowledges that the grant of this Petition may involve some risk to Petitioner, and Petitioner, as part of consideration for the granting of this Petition, hereby waives any right to seek damages for or on account of loss of, or injury to, any structures, facilities, and/or appurtenances upon said right-of-way resulting from the repair, maintenance, or

improvement of the regulated drain, whether attributable to the fault, failure or negligence of the City of Indianapolis, Board of Public Works, Department of Public Works, Department of Code Enforcement, and their officers, employees, agents, or assigns.

9. Petitioner, its heirs, successors, agents and assigns, by acceptance of this instrument, hereby agrees to and shall at all times indemnify, protect, and hold harmless the City of Indianapolis, Board of Public Works, Department of Public Works, Department of Code Enforcement, and their officers, employees, agents, and assigns from and against all costs and expenses resulting or arising from any and all losses, damages, suits, claims, or demands which the City of Indianapolis, Board of Public Works, Department of Public Works, and/or Department of Code Enforcement may suffer, sustain, or be subjected to by reason of the grant of this Petition.

10. Petitioner, its heirs, successors, agents, and assigns, by acceptance of this document, hereby agrees that all covenants, agreements, and commitments contained in this Petition that affect the use and burden on Petitioner's property shall be and constitute covenants which shall run with the land.

11. This instrument shall not be construed as a release of any rights of the City of Indianapolis, Board of Public Works, Department of Public Works, and/or Department of Code Enforcement in the aforesaid regulated drain other than the right to object to the specified modification and/or relocation herein described.

Petitioner hereby affirms that no unauthorized alterations of this document have taken place.

IN WITNESS WHEREOF, Petitioner has executed this Petition on the _____ day of _____, 20____.

Signature

Printed

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, Petitioner herein, who acknowledged the execution of the foregoing instrument to be his/hers/its free and voluntary act and deed.

Witness my hand and notarial seal this ____ day of _____, 20____.

County of Residence

Notary Public Signature

Commission Expiration Date

Printed

STAFF RECOMMENDATION

I, _____, _____,
(Name) (Title)

recommend that this Petition for Modification of Right-of-Way and/or Relocation of the _____ Regulated Drain be:

APPROVED:_____

DENIED:_____

(Signature)

(Date)

ORDER

Pursuant to Board of Public Works Resolution No. _____, 20 ____ , I, Lori Miser, Director, Department of Public Works, hereby sign the above Petition for Modification of Right-of-Way and/or Relocation of the _____ Regulated Drain, on behalf of the Board of Public Works.

ORDERED this _____ day of _____, 20 ____.

DEPARTMENT OF PUBLIC WORKS

Lori Miser, Director

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Lori Miser, Director, Department of Public Works, who acknowledged the execution of the foregoing instrument on the _____ day of _____, 20 ____ .

County of Residence

Notary Public Signature

Commission Expiration Date

Printed Name

This instrument was prepared by Kathryn M. Box of the Office of Corporation Counsel, 200 E. Washington Street, Suite 1601, Indianapolis, Indiana 46204.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Ellen Hurley, Office of Corporation Counsel.

2-11-16